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Congress of the United States
House of Representatives
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COMMITTEE ON THE JUDICIARY

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE (U.S.
HELSINKI COMMISSION)

April 13, 2023

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

I write today with deep concern about the recent anti-democratic expulsion of two state legislators from the Tennessee House of Representatives and to urge the Department of Justice to review this matter to ensure that all our constitutional rights are protected and our democratic system is enforced.

On April 6, 2023, the Tennessee House voted to remove Representatives Justin Jones and Justin J. Pearson for violations of decorum. Along with Representative Gloria Johnson, the two legislators protested the need for meaningful gun violence legislation in the well of the House. These protests were sparked by the horrific shooting at the Covenant School shooting on March 27, 2023 in which three adults and three children were killed, as well as the shooter.

While all three Representatives violated the rules of the House in their advocacy, expulsion is disproportionate discipline. The expulsion of a legislator from a legislative body inherently substitutes the judgment of other legislators for that of the district's constituents. It should be reserved for conduct that is so egregious that it makes the elected official unfit to serve. The Tennessee House of Representatives, however, removed Representatives Jones and Pearson for "disorderly" conduct after protesting gun violence. This chilling event may have deprived these state legislators of their constitutional rights and, just as significantly, the rights of their constituents to be fully represented in the state legislature.

The Tennessee House of Representatives has only expelled members twice since the Civil War. Those instances were very different. In 1980, a member was removed after being found guilty of accepting a bribe. In 2016, a member was expelled after the Tennessee Attorney General found that the legislator sexually harassed 22 women, including women who worked at the legislature.

It is deeply troubling that the Tennessee House of Representatives tried to unseat Reps. Jones, Pearson, and Johnson from office shortly after they met with anti-gun violence activists and expressed their perspective on the need for stricter firearms regulations in Tennessee – an unpopular viewpoint in the body. However, as public polling indicates, popular amongst Tennesseans.

This instance recalls Georgia in 1965, when the Georgia House of Representatives refused to seat Representative-elect Julian Bond because of his outspoken opposition to the Vietnam War. Rep.-elect Bond challenged that decision in the courts. In 1966, the Supreme Court ruled in *Bond v. Floyd* that Bond's advocacy was protected by the First Amendment, explaining "legislators have an obligation to take positions on controversial political questions so that their constituents can be fully informed by them, and be better able to assess their qualifications for office; also so they may be represented in governmental debates by the person they have elected to represent them." That remains true today: a legislature composed of elected representatives is precisely the place where controversial political positions should be debated.

Prior to my service in Congress, I served in Tennessee State Senate for 24 years. I understand and appreciate the rules of decorum and how -- though they may be frustrating at times -- serve to guide our debates and keep our rhetoric civil. However, there are many ways other than expulsion to uphold these rules. The disproportionate response to the Representatives' breach of decorum raises serious questions about the motivation for these extreme actions.

I urge you to review these circumstances to demonstrate that there is no place in our democracy for these abuses of power.

Sincerely,

A handwritten signature in blue ink that reads "Steve Cohen". The signature is fluid and cursive, with the first name "Steve" and last name "Cohen" clearly distinguishable.

Steve Cohen
MEMBER OF CONGRESS